

Remarks

Reconsideration of claims 11-20 is respectfully requested.

In the Office action dated September 24, 2007, the Examiner issued a final rejection of all pending claims under 35 USC § 103(a). The Examiner's various rejections will be discussed below in the order presented in the Office action.

35 USC § 103(a) Rejection – Claims 11-16, 18

The Examiner first rejected claims 11-16 and 18 under 35 USC 103(a) as being unpatentable over US Patent 6,973,269 (Britz). In response, applicants have amended independent claim 11 to now affirmatively define the “business premises equipment” as a separate element of the inventive network system. The Examiner is referred to FIG. 1 which illustrates BPE 22, 24, 26 and 28. In accordance with the present invention and as discussed in the specification, the BPE's are disposed as an intermediary between “customer premises equipment” (such as CPE 30 or CPE 36, FIG. 2) and network nodes (labelled as CN 14 and CN 18 in FIG. 2) so as to “packetize/aggregate” the diverse types of customer data and allow them to enter the data stream. Inasmuch as a customer's CPE does not include the ability to aggregate all of this data, the use of the intermediary allows for the customer to transmit/receive the various types of data.

In the rejection, the Examiner referred to Fig. 5a of Britz as teaching the “business premises equipment” in terms of “tertiary aggregation and distribution node 535. Applicants cannot agree with the Examiner's characterization of Britz on this point. Nodes 535 in the Britz mesh network are used to perform the conventional task of gathering traffic from various nodes and move them upward in the network architecture (or the opposite for received traffic). There is no discussion or suggestion in Britz with reference to how to packetize/aggregate “multiple” streams from one customer.

The Examiner has taken Official Notice that “providing voice and video services over metropolitan area networks” is “notoriously well known in the art”. While this may be true, the Examiner has not cited any specific reference teaching the use of an intermediary element between CPE and a network which performs the task of packetizing

and aggregating multiple streams of traffic from a single customer – a different task from providing voice and video services downstream to a customer.

Without this teaching, applicants assert that the cited Britz reference cannot be found to render obvious the teachings of the present invention as defined by (amended) independent claim 11, or claims 12-16 and 18 which depend therefrom. Applicants thus respectfully request the Examiner to review amended independent claim 11, and now allow claims 11-16 and 18 to be found to be in condition for allowance.

35 USC § 103(a) Rejection – Claim 17

The Examiner separately rejected claim 17 under 35 USC 103(a) as being unpatentable over Britz, as cited above, when further considered with US Patent 6,798,740 (Sevevirathne), where the Sevevirathne reference was cited as teaching the utilization of the STM communication standard. Regardless of this teaching, however, applicants assert that the combination of references does not disclose or suggest the use of a BPE to provide the packetization and aggregation of the multiple streams of customer traffic, as defined by independent claim 11 (from which claim 17 ultimately depends).

Based on this, applicants respectfully request the Examiner to reconsider this rejection and find claim 17 to also be in condition for allowance.

35 USC § 103(a) Rejection – Claim 19

Claim 19 was next rejected by the Examiner under 35 USC 103(a) as being unpatentable over Britz, as cited above, when further considered with US Patent 5,481,718 (Ryu), where the Examiner cited Ryu as teaching the benefits of using ATM transmission to reduce protocol processing load. However, applicants assert that the combination of Ryu with Britz still lacks any teaching regarding the use of a BPE to provide the packetization and aggregation of the multiple streams of customer traffic, as defined by independent claim 11 (from which claim 19 depends).

Based on this, applicants respectfully request the Examiner to reconsider this rejection and find claim 19 to also be in condition for allowance.

35 USC § 103(a) Rejection – Claim 20

Lastly, the Examiner rejected claim 20 under 35 USC 103(a) as being unpatentable over Britz, as cited above, when further considered with US Patent 5,689,546 (Sheets), where the Sheets reference was cited as teaching the inclusion of a unit for monitoring the performance of customer premises equipment. However, applicants assert that the combination of Sheets with Britz still lacks any teaching of a BPE to provide the packetization and aggregation of the multiple streams of customer traffic, as defined by independent claim 11 (from which claim 20 depends).

Based on this, applicants respectfully request the Examiner to reconsider this rejection and find claim 20 to also be in condition for allowance.

Applicants believe that the case, in its present form, is now in condition for allowance and request an early and favorable response from the Examiner in that regard. If for some reason or other the Examiner does not believe that the case is ready to issue and that an interview or telephone conversation would further the prosecution, the Examiner is invited to contact applicants' attorney at the telephone number listed below.

Respectfully submitted,

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